

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ARMONI MASUD JOHNSON,

Plaintiff

v.

SGT. BIENKOSKI, et al.,

Defendants

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: 3:18-CV-592
: (JUDGE MARIANI)
:
:
:

ORDER

AND NOW, THIS 21 DAY OF SEPTEMBER, 2020, upon *de novo* review of

Magistrate Judge Carlson's Report & Recommendation ("R&R") (Doc. 36), Plaintiff's

Objections thereto (Doc. 38), and all other relevant documents, **IT IS HEREBY**

ORDERED THAT:

1. The R&R (Doc. 36) is **ADOPTED** for the reasons stated therein.
2. Plaintiff's Objections (Doc. 38) are **OVERRULED**. Plaintiff's first Objection addresses "Defendant # 5" (Doc. 38, at 1) and argues that the "claim should not be dismissed against this defendant and complaint should be served on this defendant also." (Doc. 38, at 1). Plaintiff's second Amended Complaint names "Defendant # 5" as Richard Devers. (Doc. 35, at 1). Because the R&R recommends that the complaint be served upon Devers, Plaintiff's first Objection is without any basis. Plaintiff's Objections as to Judge Carlson's recommendation

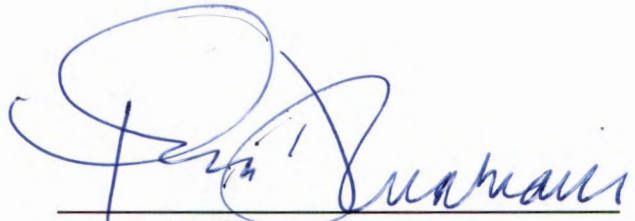
with respect to Defendants Zakaraukas, Goyne, and White¹ are also without merit where Plaintiff's second Amended Complaint fails to allege any facts to support a claim that these individuals had personal involvement in the alleged wrongdoing, including that they directed the actions of their subordinates or actually knew of the actions and acquiesced in those actions. Rather, Plaintiff only alleges that these defendant "*as Supervisors in SCI Dallas placed plaintiff on Ac Statis [sic] in RHU by way of policies that inpinged [sic] and infringed on constitutional rights of plaintiff.*" (Doc. 35, at 7) (emphasis added). Plaintiff does not identify the policies that purportedly infringed on his constitutional rights, nor does he allege any personal knowledge, involvement, or acquiescence on the part of Zakaraukas, Goyne, or White. Plaintiff's final Objection, which asserts that SCI Dallas is a proper Defendant in this matter, also fails for the reason summarized by Judge Carlson: Plaintiff's "federal civil rights claims for damages against the State Correctional Institution Dallas are barred both by the Eleventh Amendment to the United States Constitution and by cases construing the deferral civil rights statute, 42 U.S.C. § 1983." (Doc. 36, at 14).

3. Defendants Josefowicz, Zakaraukas, Goyne, White, and SCI Dallas are

DISMISSED.

¹ Plaintiff does not object to the dismissal of "Defendant # Four", Bart Josefowicz. (See generally, Doc. 38; Doc. 35).

4. The Clerk of Court is directed to **SERVE** Plaintiff's second Amended Complaint (Doc. 35) on Defendants Bienkoski, Ada, Chuba, and Devers.
5. The case is **REMANDED** to Magistrate Judge Carlson for further proceedings consistent with this Order.

A handwritten signature in blue ink, appearing to read "Robert D. Mariani", is written over a horizontal line.

Robert D. Mariani
United States District Judge